

To: Eric Urban[eurban@mt.gov]; Mathieus, George[gmathieus@mt.gov]
From: Laidlaw, Tina
Sent: Mon 10/21/2013 6:08:58 PM
Subject: FW: Downstream Beneficial Use Language
[217\[1\].pdf](#)

Second email from Amanda.

Was the downstream use issue discussed at the workgroup meeting or League conference? If so, I'd like to get a sense of MDEQ's thinking on this subject.

Thanks!

Tina

From: McInnis, Amanda [<mailto:Amanda.McInnis@hdrinc.com>]
Sent: Wednesday, October 16, 2013 10:10 AM
To: Craig Woolard; Laidlaw, Tina; Mumford, David
Cc: Suplee, Mike
Subject: Downstream Beneficial Use Language

Craig, Tina and Dave—

We had discussed at our last meeting about our reaction to the downstream beneficial use language that EPA inserted into MDEQ12. It holds point sources responsible for non-points source generated nutrients. You had asked me to send that language along. The language I read at the meeting from Chapter NR217, the State of Wisconsin's nutrient package was:

“the permittee can demonstrate that the applicable phosphorus criterion cannot be met in the watershed without the control of phosphorus from nonpoint sources”

The context of this language is a little different in the Wisconsin rules. This is the pathway for a point source to get an adaptive management “alternative effluent limit,” but I think it reflects what we are trying to say. If we can show that the criterion cannot be met without non-point control, then the point source should not be held liable for that situation.

We have also had many discussions about developing a reasonable definition of downstream. Dave Mumford proposed the idea that perhaps downstream could be defined as when the nutrient concentrations are the same as upstream of a utility's outfall. That's one idea.

Amanda

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